

REGULATION

Appointing Authority Letter Reference:	Effective Date: October 1, 1999	Index Reference: Compensation	Regulation Number: 5.025.07
Issuing Bureau: Human Resource Services	Rule Reference: Chapter 5 <u>Civil Service Commission Rules 5-3.2, 5-3.4(c)(d)</u>		Replaces: Compensation Procedure 7
Subject: PERFORMANCE-PAY PROGRAMS			

1. PURPOSE

A. This regulation establishes the standards for the performance-pay programs. Performance-pay programs are designed to establish and maintain appropriate relationships among individual and group performance, individual competencies, departmental objectives, departmental budget, and pay. Eligibility for a performance-pay award is based upon evaluation of the performance of an individual, a team of eligible individuals, or an entire agency. The department's ability to pay may be considered in setting performance-pay award amounts.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

A. Rule 5-3.2 Departmental Salary-Range Subdivisions

An appointing authority, with the prior written approval of the state personnel director, may implement departmental salary-range subdivisions within a salary range. A salary-range subdivision must fall within the range of rates of compensation approved by the civil service commission for the classification. The salary-range subdivision must be based on relevant, job-related departmental considerations, such as job complexity, level of responsibility, market conditions, or reporting relationships. The appointing authority shall publish all approved salary-range subdivisions for its affected employees.

B. Rule 5-3.4(c) Performance-Pay programs

(1) **Salary range.** For each class of positions in a performance-pay program, the civil service commission shall approve a salary range that includes (1) a minimum point, (2) one or more control points, and (3) a maximum point.

(A) **Minimum point.** The minimum point is the lowest base salary payable to an employee in the classification.

- (B) **Control point.** The control point is the highest base salary payable to an employee in the classification.
- (C) **Maximum point.** The maximum point is the maximum total salary, including both base salary and any lump sum awards, payable to an employee in the classification during a fiscal year.
- (2) **Performance-pay awards.** If an employee's position is included in a performance-pay program, the appointing authority, with the approval of the state personnel director, may award the employee an increase in base salary or a lump sum award, or both, in accordance with the compensation plan. If the employee's job performance is rated less than satisfactory, the appointing authority may reduce the employee's base salary in accordance with the compensation plan. The director may set limits on the amount of performance pay that may be awarded in a fiscal year.
- (3) **Grievances regarding performance-pay programs.** Performance-pay awards are discretionary. An employee is not authorized to appeal a final performance-pay grievance determination unless an appeal is specifically permitted in this rule or the applicable regulations.
- (A) **Grievance and appeal permitted.** An employee aggrieved by any of the following performance-pay actions may file a grievance and appeal the final determination of the appointing authority to the department of civil service:
- (1) The employee receives a performance rating of less than "meets expectations," "fully competent," or other equivalent satisfactory rating.
 - (2) The employee's pay is reduced.
 - (3) The appointing authority does not rate the performance of the employee at least once annually.
 - (4) The performance-pay action violates article 11, section 5, of the constitution or rule 1-7.
- (B) **Grievance appeal prohibited.** In all other cases, an appointing authority is permitted, but not required, to authorize an employee aggrieved by a performance-pay action to file a grievance within the department's grievance procedure. However, unless expressly authorized in subsection (c)(3)(A), the employee cannot appeal a final performance-pay grievance determination of the appointing authority to the department of civil service. By way of example only, the following performance-pay actions cannot be appealed to the department of civil service:
- (1) The amount of a performance-pay award.

- (2) The failure to be awarded a performance-pay award.
- (3) The distribution of a performance-pay award between a base salary adjustment and a lump sum award.
- (4) A performance evaluation rating at or above “meets expectations,” “fully competent,” or other equivalent satisfactory rating.
- (5) The performance evaluation or performance-pay award of another employee.
- (6) The decision to include a position into, or exclude a position from, a performance-pay program.
- (7) The performance-pay program itself, including, for example, the performance standards, departmental evaluation methods, rating categories, and departmental salary-range subdivisions.

C. Rule 5-3.4(d) Conversion of performance-pay schedule to step schedule. If a classification is converted from a performance-pay schedule to a schedule with steps, an employee whose position is converted must be placed at a step at least equal to the employee’s base salary under the performance-pay plan at the time of conversion in accordance with the regulations.

3. STANDARDS

A. Scope — The civil service commission has established a performance-pay program for employees in designated classifications. The performance-pay program consists of base salary and lump sum awards to be administered within established pay ranges in accordance with regulations approved by the state personnel director.

C.B. Salary Range — The civil service commission fixes the range of rates of compensation for all ~~classes of positions~~classifications.

- 1. Classification Ranges** — The commission shall, for each ~~class of positions~~classification level in a performance-pay program, fix a salary range that consists of (1) a minimum point, (2) a control point, and (3) a maximum point.
- 2. Departmental Salary-range Subdivisions** — As authorized in rule ~~5-4.2(a)~~5-3.2, an appointing authority may establish one or more salary-range subdivisions within a class salary range established by the commission. Each salary-range subdivision ~~shall fix~~must have a subdivision control point

(a base-pay ceiling) that is less than the control point of the class. An appointing authority may propose a salary-range subdivision to the department of civil service. The department of civil service ~~shall~~will review the proposal and ~~shall~~ approve or deny the request. If the department of civil service approves a salary-range subdivision, the appointing authority ~~shall~~must give notice of the subdivision to each employee whose position is subject to the limits of the subdivision.

D.C. Performance-Pay — The appointing authority may grant a performance-pay award in accord with the standards of this regulation. A performance-pay award ~~shall~~may consist of a base salary increase, a lump sum award, or a combination of the two.

1. **Base Salary Increase** — An employee may receive an increase in base salary up to the lower of (1) the control point for the class or (2), if the employee's position is subject to an approved salary-range subdivision, any applicable base-pay ceiling.
2. **Lump Sum Award** — An employee may receive a lump sum award not to exceed the difference between the control point and the maximum point. If the employee's base salary is below the control point or any applicable base pay ceiling, the employee may receive both a lump sum award and an increase in base salary. If the employee's base salary is at the control point or any applicable base pay ceiling, a performance award ~~shall~~must be granted in a lump sum only.

3. Other Performance-Pay Conditions

- a. The total base salary and lump sum awards received by an employee in any fiscal year ~~shall~~must not exceed the maximum point of the salary range.
- b. The minimum point of the salary range is the lowest base-pay salary for an individual appointed or converted into a designated classification in the performance-pay program.
- c. An employee's base salary ~~shall~~must not exceed the lower of (1) the control point or (2) if the employee's position is subject to an approved salary-range subdivision, any applicable base pay ceiling.
- d. The total lump sum award received by an employee in any one fiscal year ~~shall~~must not exceed the amount of the difference between the control point and the maximum point.

- e. An employee must receive a performance rating of at least “meeting expectations,” “fully competent,” or other equivalent satisfactory rating before receiving any performance-pay award.
- f. If an employee receives a performance rating lower than “meeting expectations,” “fully competent,” or other equivalent satisfactory rating, the employee’s base salary may be reduced. The employee’s base salary may be reduced up to **eight percent** (8%) of the base salary in any one fiscal year, unless a different percentage limit is specified for the particular class or group. The employee ~~shall~~will not be eligible for any general base pay increase or performance-pay award until the employee receives a subsequent rating of at least “meeting expectations,” “fully competent,” or other equivalent satisfactory rating.”
- g. **Approval Required** — Each initial rate of pay and each subsequent performance-pay action for employees in the senior executive service (SES), ECP Group 4, and the senior executive management assistant service (SEMAS) requires prior review and approval by the state personnel director.
 - (1) **Request for Approval of Appointment Pay Rates** — The appointing authority ~~shall~~must submit a ~~Request~~request for ~~P~~pay ~~A~~approval ~~(CS-1725)~~ to the Department of Civil Service, ~~Compensation Program, via the automated web-based approval process~~ for all appointments and reassignments to SES, ECP Group 4, and SEMAS positions, certifying that a performance management plan is in place for the employee. If the position is in the SES or SEMAS, the SES or SEMAS limited term appointment agreement must be submitted with the request. Requests must be submitted before the close of the pay period in which the appointment is effective.
 - (2) **Request for Approval of Performance-Pay** — The appointing authority ~~shall~~must submit a ~~R~~request for ~~P~~pay ~~A~~approval ~~(CS-1725)~~ to the Department of Civil Service, ~~Compensation Program, via the automated web-based approval process~~ for all performance-pay base salary and lump sum awards for employees in SES, ECP Group 4, and SEMAS positions, certifying that a performance evaluation has been completed. Requests must be submitted within ~~seven~~(7) pay periods of the effective date of the performance evaluation.

(3) Approval of Pay Upon Appointment and Performance-Pay —

The Department of Civil Service, ~~Compensation Program~~, will issue approval or disapproval actions on properly documented appointment pay approval requests within five workdays of receipt and on performance-pay approval requests within ten work days. Special extenuating circumstances may provide a basis for approval of retroactivity beyond seven pay periods. Any requests for consideration of extenuating circumstances must be approved by the state personnel director.

4. Other Conditions Applicable to ECP Groups 1, 2 and 3 Employees - The following limits on performance-pay apply to all non-exclusively represented employees in Groups 1, 2, and 3 of the Equitable Classification Plan:

a. An appointing authority must submit to the state personnel director a request to add or delete a classification to/from a performance management plan. All performance management plans, changes, and additions must be approved prior to implementation.

~~(a)~~b. The maximum performance-pay increase or decrease in base pay in any one fiscal year ~~shall~~must not exceed **five percent** (5%) of the employee's prior base salary.

~~(b)~~c. The total of all performance base pay increases and lump sum awards during any one fiscal year ~~shall~~must not exceed **five percent** (5%) of the employee's prior base salary.

(4)5. Other Conditions Applicable to SEMAS Employees — The following limits on performance-pay awards apply to all employees in the senior executive management assistant service (SEMAS):

~~(a)~~a. The maximum performance-pay increase or decrease in base pay in any one fiscal year ~~shall~~must not exceed **eight percent** (8%) of the employee's prior base salary.

~~(b)~~b. The total of all performance base pay increases and lump sum awards during any one fiscal year ~~shall~~must not exceed **eight percent** (8%) of the employee's prior base salary.

(5)6. Other Conditions Applicable to SES and ECP Group 4 Employees —

The following limits of performance-pay awards apply to all employees in the senior executive service (SES) and Group 4 of the Equitable Classification Plan:

~~(a)~~**a.** The maximum performance-pay increase or decrease in base pay in any one fiscal year ~~shall~~**must** not exceed **five percent** (5%) of the employee's prior base salary.

~~(b)~~**b.** The total of all performance base pay increases and lump sum awards during any one fiscal year ~~shall~~**must** not exceed **ten percent** (10%) of the employee's prior base salary.

~~(c)~~**c.** Any performance award in **excess of five percent** (5%) of the employee's base salary ~~shall~~**must** be in the form of a lump sum award. Before an award in excess of five percent (5%) of the employee's base salary or in excess of the "department maximum lump sum award" amount is approved, it must be submitted by the appointing authority to the state personnel director for review and approval under statewide performance criteria.

(1) The following documentation must be submitted with each request:

(a) A statement of support for the award from the Department Director – The statement should address the employee's accomplishments during the rating period, the importance of the employee's achievements to the department's strategic goal attainment, and the effort or competencies applied by the employee to achieve positive results. The statement may address other factors the director believes should be considered as the basis for an exceptional award.

(b) The employee's performance standards and evaluation for the rating period – A copy of the signed and dated performance evaluation form must be provided which includes the performance factors/objectives, relevant competencies (if used), and the supervisor's evaluation.

(c) A completed request for pay approval form – A request for pay approval for SES/SEMAS and Group 4 performance-pay programs form (CS-1725) must be provided indicating the amount of the lump sum bonus requested. Civil Service staff will notify the appointing authority of approval or disapproval of the request.

~~(7)~~**7. Other Conditions Applicable to Attorneys** — The following limits on performance-pay awards apply to all attorneys (irrespective of ECP Group

number) in performance-pay classifications in the department of attorney general:

(a)a. The maximum performance-pay increase or decrease in base pay in any one fiscal year ~~shall~~must not exceed **eight percent** (8%) of the employee's prior base salary.

(b)b. The total of all performance base pay increases and lump sum awards during any one fiscal year ~~shall~~must not exceed **eight percent** (8%) of the employee's prior base salary.

8. Working-Out-of-Class Compensation in Performance-Pay Classifications – When an employee is temporarily assigned to perform the duties and responsibilities of a properly classified position in a classification with a higher maximum salary rate or control point than that of the employee's position in a performance-pay program, the base salary rate must not exceed the midpoint between the employee's current base salary and the fixed control point or salary-range subdivisions of the temporarily assigned classification.

E.D. Performance Evaluations — The appointing authority ~~shall~~must evaluate and rate each employee in a performance-pay program at least once annually. The appointing authority may use any reasonable evaluation and rating methods. However, the appointing authority ~~shall~~must report each performance evaluation to the state personnel director in the manner prescribed by the director to permit comparison across departments.

1. Plan for Department-wide Evaluation of SES and Group 4 Employees — Each department ~~shall submit~~must have a plan ~~on file with~~ the state personnel director that addresses: (1) the annual cycle for performance evaluation that will be used by the department, including common review dates as appropriate, and a plan to convert to common dates; (2) a process to ensure internal consistency of performance evaluations and pay recommendations; (3) the number of rating categories that will be used, and, if greater than three, how they will convert to the statewide reporting categories of highly competent/exceeding expectations, fully competent/meeting expectations, and improvement expected/not meeting expectations; (4) measures to ensure timely submission of performance-pay requests to the Department of Civil Service for approval.

2. Performance Evaluation Documentation, Audit, and Reporting — The appointing authority ~~shall~~must document and retain for compliance audit by the Department of Civil Service, the performance plan and evaluation for all

employees in a performance-pay program using the Performance Management Employee Rating form (CS-1719B) or other approved form. If an audit finds performance evaluation documentation is inadequate, the appointing authority will be required to submit performance evaluation documents to the Department of Civil Service in order to receive performance-pay approvals. The appointing authority ~~shall~~must report each Group 4, SES, and SEMAS employee rating to the Department of Civil Service ~~on the Request for Pay Approval (CS-1725) form~~via the automated web-based approval process when seeking performance-pay approval.

F.E. Salary Upon Appointment or Conversion to the SES or SEMAS — Upon appointment or conversion to the senior executive service or senior executive management assistant service, the base salary rate ~~shall~~must be at or above the minimum point and ~~shall~~must not exceed the control point. The first salary review may be given at the six-month period.

G.F. Salary Upon New Hire or Promotion to ECP Groups 1, 2, 3, or 4 Position — Upon new hire or promotion into a Group 1 (NERE), Group 2 (NERE), Group 3, or Group 4 class of the Equitable Classification Plan, the base salary rate ~~shall~~must not exceed the midpoint between the base salary rate received prior to the hire or the promotion and the control point of the range. If a salary-range subdivision applies, the base salary rate ~~shall~~must not exceed the ceiling of the subdivision. The first salary review may be given at the six-month period. The state personnel director may authorize a higher starting rate upon application by the appointing authority. An appointing authority may authorize a higher rate without prior approval if any of the following apply:

1. There is difficulty in recruiting for the particular position.
2. The prospective employee is currently employed outside the classified service, and a salary in excess of the midpoint formula is necessary to attract the prospective employee.
3. The prospective employee has special experience and education. The background should be well beyond the minimum qualifications contained in the specification for classification of the position.
4. The prospective employee ~~has been~~is currently a state employee, ~~or has been~~previously, and has experience pertinent to the position.

Note: The appointing authority ~~shall~~must document the reason for the higher starting rate when one of the above conditions applies. The

documentation ~~shall~~must be ~~maintained in the employee's personnel file~~retained for audit purposes.

H.G. Salary Upon Conversion to ECP Groups 1, 2, 3, or 4 — Upon conversion to a performance-pay program class in ECP Group 1, 2, 3, or 4, the employee's current salary ~~shall~~must be maintained if it is at or above the minimum point of the range. If the employee's pre-conversion salary is below the minimum point, the salary ~~shall~~must be set at the minimum point. The employee may be eligible for a performance review and a merit increase at the six-month point.

I.H. Salary Upon Reclassification — Upon reclassification within the performance-pay program, the employee's current salary ~~shall be~~is maintained. The employee may be eligible for a performance review and a merit increase at the six-month point.

J.I. Effect of Position ~~Restriction~~Freeze — An employee occupying a position ~~restricted~~frozen for level in a performance-pay program classification ~~shall~~must receive performance evaluations but ~~shall~~is not ~~be~~ eligible to receive performance-pay unless the maximum salary rate of the proper classification for the position is greater than the employee's base salary rate.

K.J. General Salary Increases — An employee who has a current performance rating of at least "meeting expectations," "fully competent," or other equivalent satisfactory rating is eligible to receive any general pay adjustment approved by the civil service commission. The general pay adjustment ~~shall be~~is based on the employee's base salary on the effective date of the general pay adjustment. An employee who has a current performance rating less than "meeting expectations," "fully competent," or other equivalent satisfactory rating is not eligible to receive a general pay increase.

L.K. Salary Upon Conversion from Performance-Pay Schedule to Step Schedule — If the state personnel director approves the conversion of an entire class or part of a class ~~is converted~~, from a performance-pay schedule to a schedule with steps, the employee ~~shall~~will be placed at a pay step at least equal to the employee's base salary under the performance-pay plan at the time of conversion. The employee's hours ~~to step shall~~ since last step will be set to reflect the number of hours in pay status since the effective date of the last performance evaluation, which must be less than 2,080 hours. If the employee served less than 2,080 hours in the position and has not received a performance evaluation, the hours ~~to step shall~~ since last step will be set to reflect the number of hours in pay status in the position.

M.L. Exceptions to the standards contained in this regulation may be approved by the state personnel director.

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 335-7862 or (517) 373-7618, or MDCS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.